

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW MEXICO**

RICHARD BUSTAMANTE,

Plaintiff,

v.

Civ. No. 18-237 JB/GJF

NANCY A. BERRYHILL, *Acting
Commissioner of the Social Security
Administration,*

Defendant.

ORDER TO SHOW CAUSE

On January 28, 2019, Defendant Nancy A. Berryhill, Acting Commissioner of the Social Security Administration, filed a motion entitled “Defendant’s Motion to Dismiss Pursuant to Fed. R. Civ. P. 12(b)(1)” [ECF 18], asking this Court to dismiss Plaintiff Richard Bustamante’s complaint, under Rule 12(b)(1) of the Federal Rules of Civil Procedure, for lack of subject matter jurisdiction.¹ Pursuant to the local rules of this Court, any response Plaintiff wished to file to this motion “must [have been] served and filed within fourteen (14) calendar days after service of [Plaintiff’s] motion.” D.N.M.LR-CIV 7.4(a). Otherwise, “[t]he failure . . . to file and serve a response in opposition to a motion within the time prescribed for doing so constitutes consent to grant the motion.” *Id* at 7.1(b).

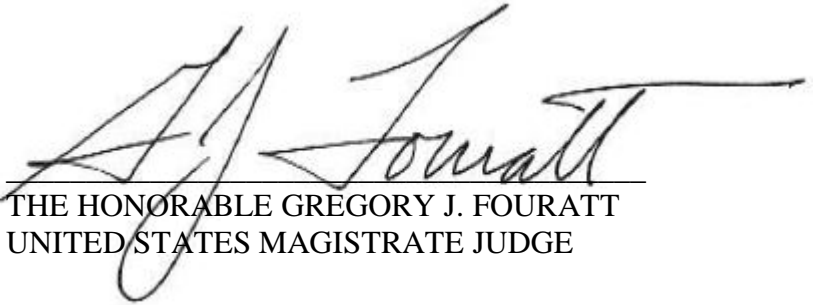
As approximately two months have passed since Defendant’s motion was filed and Plaintiff has not responded, this Court will order Plaintiff to either respond to this motion within two weeks or otherwise show cause as to why his case should not be dismissed due to his presumed consent to Defendant’s motion.

IT IS THEREFORE ORDERED that Plaintiff either (1) file a response to Defendant’s

¹ The Motion reflected that it was served by first-class mail on Plaintiff at his mailing address of record. *See* ECF 18 at 6-7.

motion to dismiss [ECF 18] by **April 15, 2019**, or (2) otherwise show cause as to why the Court should not DISMISS his complaint. Failure to response to this order may result in the DISMISSAL of Plaintiff's complaint without prejudice.

IT IS SO ORDERED.



THE HONORABLE GREGORY J. FOURATT
UNITED STATES MAGISTRATE JUDGE